

# **EXHIBIT 5**

1  
2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF WASHINGTON

4 -----x  
5 CITY OF SPOKANE, a municipal  
6 corporation, located in the County  
7 of Spokane, State of Washington,

8 Plaintiff,

9 -against-

Case No.  
15-cv-00201-  
SMJ

10 MONSANTO COMPANY, SOLUTIA INC., and  
11 PHARMACIA CORPORATION, and DOES 1  
12 through 100,

13 Defendants.  
14 -----x

15 December 10, 2019  
16 9:06 a.m.  
17  
18  
19  
20  
21  
22

23 Videotaped deposition of DAVID ROSNER,  
24 taken by Defendants, pursuant to Notice, held  
25 at The Courtyard Marriott Central Park, 1717  
Broadway, New York, New York, before Joseph R.  
Danyo, a Shorthand Reporter and Notary Public  
within and for the State of New York.

Job No. 171881

1 Rosner

2 Spokane specifically.

3 Q. You are not offering opinions in this  
4 case on the extent to which PCBs were used in  
5 building materials in Spokane, correct?

6 MR. JULIUS: Can you read that back  
7 for me.

8 (Record read)

9 A. Well, again, I have reviewed  
10 information about building materials, but I have  
11 not ever read anything specifically about  
12 Spokane.

13 Q. Okay. My question was, I appreciate  
14 that, my question had to do with the extent to  
15 which PCBs might have been used in building  
16 materials in buildings existing in Spokane. So  
17 it has to do with the magnitude as opposed to  
18 their mere presence.

19 A. No, I have not seen any information  
20 regarding that.

21 Q. Okay. Do you hold yourself out as an  
22 expert in the field of waste management and  
23 practices in the 20th Century?

24 A. Well, I know a bit about it since I  
25 am a historian of public health, and that is one

1 Rosner

2 of the issues you follow as a historian, but I  
3 wouldn't say this is my field of specific  
4 expertise in terms of modern practices. I'm not  
5 quite sure whether that answers it.

6 Q. Well, let me sort of plumb the depths  
7 of that.

8 A. Sure.

9 Q. Obviously you are not an engineer.  
10 You are a professor of history. Is that correct?

11 A. That's right.

12 Q. You have no training as an  
13 environmental engineer, correct?

14 A. No, just its history.

15 Q. Have you ever published on the  
16 history of pollution control by industry in the  
17 United States in the 20th Century?

18 A. Well, I have published a lot on  
19 public health and industry, and a lot of that has  
20 to do with various aspects of pollution, whether  
21 it be pollution of the plant or pollution of the  
22 environment. As you know, you have the article  
23 on I think it is actually called something about  
24 pollution. I don't know what the title of this  
25 is. Let me just see.

1 Rosner

2 Monsanto PCBs and the Creation of a  
3 Worldwide Ecological Problem, so to the extent  
4 that I followed this issue.

5 Q. That's fine. It was a poorly worded  
6 question. Have you authored or published any  
7 paper, book, treatise that identifies the  
8 principles for the determination of the adequacy  
9 of waste disposal practices in the 30's through  
10 the 60's?

11 A. Again, I wrote articles. The article  
12 I was thinking of is the persistence -- the  
13 article I wrote for environmental research, I  
14 believe, the title of which is The Politics of  
15 Pollution, I believe, but I'm not sure of the  
16 exact title, but I believe it has pollution in  
17 it, but the adequacy, that sounds like a  
18 technical problem, technical issue, that would be  
19 better addressed from a contemporary point of  
20 view by I guess an industrial engineer or a  
21 chemist or I'm not quite sure what field would be  
22 best suited.

23 Q. Well, let me ask you do you hold  
24 yourself out as an expert in the evolution of the  
25 technology of waste disposal in the 20th Century?

1 Rosner

2 A. Well, only insofar as I have read a  
3 great deal about it and have tried to follow it  
4 indirectly from my work as a public health  
5 historian.

6 Q. You have never yourself been asked,  
7 nor would you hold yourself out as having  
8 expertise in the design of a suitable waste  
9 disposal facility?

10 A. Oh, no, definitely not.

11 Q. You don't have any expertise in the  
12 technical aspects of that work?

13 A. That's right.

14 Q. All right, and you have no expertise  
15 in the technical aspects of the design of a waste  
16 disposal facility that might have been used in  
17 the 30's through the 60's in the United States?

18 A. Well, only insofar as from what I  
19 have read in the documents.

20 Q. Which documents?

21 A. Well, the documents talk about  
22 dumping. They talk about toxic waste dumps.  
23 They talk about burning, incinerators, things  
24 like that, which are materials I have available  
25 to me. But I wouldn't say I was an expert on.

1 Rosner

2 chemical waste from the 30's to the 60's?

3 MR. JULIUS: Incomplete hypothetical.

4 A. No.

5 Q. For your work in this case or for the  
6 development of your report and article that we  
7 have marked as Exhibit 2, did you do a  
8 comprehensive review of the literature on waste  
9 disposal practices from the 30's through the  
10 60's?

11 A. Not a comprehensive one, no.

12 Q. Can you cite to me any learned  
13 treatise or authoritative article, book, journal,  
14 article that identifies the state of art in  
15 landfill technology in the 30's through the  
16 1960's?

17 A. No.

18 Q. Have you done a comprehensive review  
19 of the engineering and scientific literature  
20 relating to technologies recognized as being  
21 adequate to contain chemical wastes in landfills  
22 from the 30's to the 60's?

23 MR. JULIUS: Assumes facts. Vague.

24 A. No. Not a systematic review.

25 Q. Have you ever published on that

1 Rosner

2 topic, the topic of engineering and scientific  
3 literature relating to technologies recognized as  
4 being adequate to contain chemical wastes from  
5 the 30's through the 60's?

6 A. If you are asking as an engineering  
7 issue, I have not. What I have done is look at  
8 the history of the discussions of the problems of  
9 industrial pollution. Insofar as it deals with  
10 industrial waste, then I guess that is an issue,  
11 but as I mentioned, the persistent pollutant  
12 problem article that I wrote, this essay all in  
13 different ways address the issue of what happens  
14 to materials and the responsibilities of industry  
15 to know what the dangers of their materials and  
16 to know not to put them into the environment.

17 MR. MILLER: Move to strike.

18 Q. Doctor, do you agree that your report  
19 does not identify the standards by which industry  
20 determined the appropriate methods for the  
21 disposal of chemical wastes during the 30's  
22 through the 60's?

23 A. Not the technological  
24 responsibilities.

25 Q. Have you cited in your report an



1 Rosner

2 article, any reference material or treatise in  
3 waste disposal practices that you would look to  
4 to say this provided a standard by which industry  
5 should have addressed the appropriate disposal  
6 methods for chemical waste?

7 A. Well, I guess what comes to mind is  
8 Monsanto's Garrett in 1957 who writes in a  
9 journal called Industrial Waste an article in  
10 which he talks about the responsibilities of  
11 industry not to pollute, not to dump their  
12 materials in streams and not to put it in  
13 waterways and the like, if that is what you mean.

14 Q. You are talking about Jack Garrett's  
15 1957 article?

16 A. That's right.

17 Q. Any other document that establishes a  
18 standard for the determination of appropriate  
19 methods to dispose of chemical wastes from the  
20 30's to the 60's?

21 A. Well, again, Manufacturing Chemists  
22 Association, their L1. You had to know the  
23 dangers of your product before you put it into  
24 commerce. Your standard was to make sure that  
25 your material was safe for the environment and

1 Rosner

2 safe for the consumer. I mean I don't quite know  
3 how else to answer. I don't remember the  
4 technological information.

5 Q. You are familiar obviously with the  
6 L1 manuals?

7 A. Yes.

8 Q. Would you confirm for me that there  
9 isn't a single proposed warning in any L1 manual  
10 from the 1940's, or whenever they began, to the  
11 1970's that provides instructions regarding waste  
12 disposal for a product?

13 MR. JULIUS: Assumes facts. It may  
14 call for speculation.

15 A. Yeah. They are talking about  
16 warnings without knowing the dangers of your  
17 product and knowing not to put people in harm's  
18 way.

19 Q. My question was a little different.  
20 Are you aware of any proposed warning that  
21 appears in the L1 manual that includes  
22 instructions for the disposal of a product?

23 MR. JULIUS: Same objections.

24 A. No, I don't remember that.

25 Q. Is there a single document that you

1 Rosner

2 can identify that includes an instruction on how  
3 to dispose of chemical waste provided either by  
4 or to industry from the 30's to the 1960's or  
5 70's?

6 A. I really haven't studied that. I  
7 can't answer that.

8 Q. Was there any regulatory body that  
9 existed that established recommended waste  
10 disposal practices for chemical wastes in the  
11 30's through the 1960's?

12 A. Again, I haven't studied that. I  
13 don't know. I don't think so.

14 Q. Have you in your report or your  
15 article that we have marked as Exhibit 2 cited  
16 any law or regulation that would have compelled  
17 GE or Kaiser or Westinghouse to alter the way  
18 they disposed of their chemical wastes in Spokane  
19 or elsewhere from the 30's to the 1960's?

20 A. I don't know about any local public  
21 health regulations, if that is what you are  
22 asking.

23 Q. Or federal or state law?

24 A. I don't really know. I don't think  
25 there is any federal law at that point.

1 Rosner

2 Q. Have you looked to see whether there  
3 was any state law from the State of Washington?

4 A. No.

5 Q. Do you understand that a substantial  
6 or a portion, I don't want to quarrel about the  
7 magnitude, but a portion of the PCBs from the  
8 Spokane River come from sources in Idaho?

9 MR. JULIUS: Assumes facts, but go  
10 ahead.

11 A. I'm sorry, do I know that?

12 Q. Yes.

13 A. I guess the Spokane River comes from  
14 Idaho, but I don't really know any more than  
15 that.

16 Q. Obviously -- take a step back. You  
17 haven't looked at any law or regulation that  
18 discussed or proscribed any -- let me start over  
19 again. You have not looked at any law or  
20 regulation from Idaho that would have informed  
21 users of PCBs how to dispose of PCBs or chemical  
22 waste from the 30's to the 60's in Idaho, is that  
23 right?

24 A. I have not looked at those.

25 Q. Can you identify for me the first

1 Rosner

2 company product manufacturer that included an  
3 instruction on the disposal of their product to  
4 its customers?

5 A. No.

6 Q. You have seen in the context of these  
7 cases material safety data sheets that Monsanto  
8 issued to customers starting in about 1971  
9 concerning its PCBs. Correct?

10 A. I may have. I don't recall them now.  
11 I haven't studied them for this case.

12 Q. Let me find them.

13 (Defendants' Exhibit 3, Compilation  
14 of material safety data sheets issued by  
15 Monsanto Company from May 1971, was so  
16 marked for identification, as of this  
17 date.)

18 Q. Doctor, Exhibit 3 is a compilation of  
19 material safety data sheets issued by Monsanto  
20 Company. They are all from May 1971 for a  
21 variety of PCB products. Do you recognize  
22 Exhibit 3 to be what I just described?

23 A. Yes.

24 Q. The first page of Exhibit 3 is for  
25 Inerteen 70-30. Do you see that? It would be on

1 Rosner

2 surrounded the disposal practices at Monsanto  
3 itself and at Anniston in the mid '60's when they  
4 understood that sewers were leaking materials  
5 into the streams.

6 Q. Maybe my question wasn't clear. Are  
7 you aware of any other chemical manufacturer that  
8 provided instructions to their customers on  
9 disposal practices before May 1971?

10 A. I haven't studied that. I haven't  
11 looked at that.

12 Q. You obviously know from your work  
13 that PCBs are regarded as lipophilic?

14 A. Yes.

15 Q. Which means they reside in fat,  
16 correct?

17 A. That's right.

18 Q. You understand that they are not very  
19 soluble in water, correct?

20 A. That's right.

21 Q. And in those respects, they share  
22 characteristics with other chlorinated  
23 hydrocarbons. Is that correct?

24 A. Yes.

25 Q. Among others, aldrin, dieldrin,

1 Rosner

2 heptachlor, chlordane and DDT to name a few?

3 A. That's right.

4 Q. Are you aware, Dr. Rosner, of any  
5 other manufacturer of compounds sharing those  
6 characteristics that provided warnings about  
7 disposal of their products prior to May 1971?

8 MR. JULIUS: It may call for  
9 speculation.

10 A. No. This is the period when during  
11 the 60's after Silent Spring, that this became a  
12 major national concern.

13 Q. I understand, but are you aware of  
14 manufacturers of any of those chemical products  
15 providing instructions to customers on how to  
16 dispose of their products?

17 MR. JULIUS: Same objection.

18 A. Again, I haven't studied those other  
19 products or those other industries, but I don't  
20 recall any.

21 Q. Some of the products that I just  
22 mentioned, DDT, aldrin, dieldrin, heptachlor,  
23 chlordane, are or were insecticides that were  
24 applied to crops, among other locations, correct?

25 A. That's right.

1 Rosner

2 Q. And in that regard, they had to be  
3 registered with USDA or EPA under the regulatory  
4 framework of FIFRA?

5 A. Well, yes, FDA requirements, yes.

6 Q. All right. Are you familiar to some  
7 degree with FIFRA requirements for labeling?

8 A. No. Only if there was a possibility  
9 of it getting into the food supply. That is  
10 really my understanding of it.

11 Q. Are you aware as to whether or not  
12 EPA or USDA ever required manufacturers of the  
13 products that we have been talking about, these  
14 chlorinated hydrocarbon insecticides, to provide  
15 instructions to customers about how to dispose of  
16 their product?

17 MR. JULIUS: Objection.

18 A. No. I don't recall that. I didn't  
19 study that.

20 Q. Do you know if FIFRA ever required an  
21 instruction to be provided by product  
22 manufacturers of the products we have been  
23 talking about about disposal practices?

24 A. Again, no. EPA, first of all, didn't  
25 even exist until 1970, so they wouldn't have did



1 Rosner

2 it. Whether the FDA had requirements, I know  
3 they had requirements about materials that could  
4 get into the human food supply. I don't know  
5 that they talked about waste disposal. I don't  
6 think that was their province.

7 Q. In connection with either the  
8 San Diego case or the City of Spokane case, have  
9 you been asked to offer opinions on statements  
10 issued by the American Council for Science and  
11 Health on topics associated with PCBs?

12 A. No. I mean I know that organization  
13 from other topics I have studied, but no.

14 Q. Have you looked at any statements  
15 made by the American Council for Science and  
16 Health related to polychlorinated biphenyls?

17 A. Yes.

18 Q. In your report and your journal --

19 A. I'm sorry. I'm sorry. I have looked  
20 at statements about polyvinyl chloride. That is  
21 what I was thinking of. No, not biphenyls.

22 Q. So you haven't seen any statements,  
23 to your knowledge, regarding PCBs that was issued  
24 by or were issued by the American Council of  
25 Science and Health?

1 Rosner

2 Q. Do you know what the regulations were  
3 that EPA proposed?

4 A. No, I don't.

5 Q. And therefore you don't know what the  
6 bases was proposed that EPA used to propose those  
7 regulations, whatever they were?

8 A. The bases?

9 Q. Correct.

10 A. The bases was their worry about the  
11 fact that this was an environmental contaminant  
12 that had polluted virtually the entire world.

13 Q. That wasn't quite my question. I  
14 understand from your testimony that you  
15 understand that the proposed regulations have to  
16 do with effluent limitations on PCBs into  
17 receiving streams, correct?

18 A. Again, I don't remember. I remember  
19 his getting the award and being very proud that  
20 he -- what I interpreted and I think what the  
21 letter said was that he foiled their attempt.

22 Q. Did you ever look at the proposal  
23 that EPA submitted for comment that is the  
24 subject of this discussion?

25 A. All I remember is some kind of

1 Rosner

2 response that Monsanto, and I think it is about  
3 this particular proposal, but I'm not sure, was  
4 very happy that they listened to most of  
5 Monsanto's objections. That is what I remember,  
6 and it may be a different regulation, but I  
7 remember their feeling like it went from .01 to  
8 .05. You know. There were numbers associated  
9 with it, but they felt that they had been fairly  
10 successful in changing, getting the EPA to change  
11 their standard.

12 Q. Do you know the scientific basis for  
13 the proposed regulations that EPA sought to  
14 promulgate?

15 A. The scientific basis?

16 Q. Yes.

17 A. They are trying to figure out just as  
18 with the TLVs and the MACs, they are trying to  
19 figure out some number they can start limiting  
20 the exposure of the population to. They are  
21 trying to establish some standard.

22 Q. I understand that.

23 A. I mean I don't know that there is  
24 good science about it.

25 Q. Okay. That's sort of what I'm

1 Rosner

2 getting at. Do you know what the science was  
3 behind the EPA proposed regulations?

4 A. The science was the fact that they  
5 realized that it was impossible I think by that  
6 time, '75?

7 Q. '74.

8 A. '74. Their suspicion that it may be  
9 a carcinogen, that it is getting into the broad  
10 environment. These were the standards that they  
11 were trying to figure out how to lower the  
12 exposure of the American population and the  
13 environment to this material.

14 Q. Well, my question is a little bit  
15 more specific, which is what are the scientific  
16 underpinnings of the proposed regulations? Do  
17 you know one way or the other?

18 A. The scientific underpinnings were  
19 what was obvious to scientists and the general  
20 public, which is that this material is getting  
21 into the environment, and it is dangerous, and we  
22 don't have enough information about it to allow  
23 it into the environment.

24 It is at this point that most  
25 carcinogens are being identified as having

1 Rosner

2 virtually zero exposure limits. This is one of  
3 the things about the early 70's. They are saying  
4 we don't know enough about this material to say  
5 that there is a safe limit. We have to lower it.  
6 That is all we know.

7 There is no epidemiology. You  
8 couldn't do epidemiology. That would take, you  
9 know, years and years and years to do. They had  
10 some information about some animals and some rat  
11 studies, and we had Kimbrough and you have other  
12 scientists who were indicating that you have a  
13 real human health problem as well as a broad  
14 environmental problem and that this is material  
15 we had to figure out how to limit.

16 Q. Well, Doctor, I appreciate that  
17 narrative. I am asking specifically what were  
18 the numeric factors that EPA used in proposing  
19 this effluent limitation?

20 A. They were trying to establish as low  
21 a limit as they could get.

22 Q. Do you know what a water quality  
23 criteria is?

24 A. You mean a criteria statement?

25 Q. Well, what a water quality criteria

1 Rosner

2 is that EPA would develop or promulgate?

3 A. No. I don't remember that.

4 Q. Do you know what the factors are that  
5 EPA considers in the development of water quality  
6 criteria?

7 A. I would assume they look at the water  
8 quality. They look at the oxygen levels, its  
9 cloudiness. These are the historical measures of  
10 water quality. You know, whether it smelled.  
11 They probably measure certain kinds of chemicals  
12 that might be available in it, but, you know,  
13 this is a number, this is an issue that changes  
14 over time.

15 Q. Let me cut to the chase. So you  
16 probably don't know this, but in 1974 the EPA  
17 regulations about which we're talking had to do  
18 with the application of what's called a  
19 bioconcentration factor of PCBs into fish. Does  
20 that ring a bell to you at all?

21 A. Well, that was one of the issues,  
22 that this is accumulating in animal life.

23 Q. And to create the water quality  
24 criteria, EPA had proposed the use of a  
25 bioconcentration factor of a particular number?

1 Rosner

2 A. Oh, I don't recall that.

3 Q. Okay. Is that something you studied  
4 in connection with your work in this case?

5 A. No. That sounds like a technical  
6 issue. They were concerned about PCBs in  
7 animals.

8 Q. I understand, but with respect to  
9 this bioconcentration factor, do you understand  
10 that the issue that Dr. Wright raised in his  
11 critique of the proposed EPA regulations had to  
12 do with the derivation of the bioconcentration  
13 factor EPA had decided upon?

14 A. No. I am sure that there are all  
15 sorts of arguments that could be made about any  
16 of these criteria.

17 Q. So you have no basis to challenge Dr.  
18 Wright's critique of the EPA bioconcentration  
19 factor that was subsumed within its water quality  
20 criteria proposed in 1974. Is that correct?

21 MR. JULIUS: Assumes facts, lacks  
22 foundation.

23 A. I have every basis for saying this.  
24 This is a real concern to try to get PCBs out of  
25 the environment and not to allow more in. That

1 Rosner

2 was what the issue was in general in the early  
3 70's. The numbers have changed over time. There  
4 are arguments about methodology. There are  
5 arguments about whether animal studies, whether  
6 rats or rabbits, should be used. There is all  
7 sorts of technological information that is being  
8 debated, but the simple fact is what the crisis  
9 was at that period was that they knew that PCBs  
10 were in the environment. There are certain  
11 indications that they were getting into human  
12 beings and that there is a potential long-term  
13 hazard that could not be measured  
14 epidemiologically, because it would take 30 or 40  
15 or 50 years before the impact of this material  
16 would show up, and that is what they understood.

17 The science was not very  
18 sophisticated, and there were all sorts of  
19 arguments that were made about what were the  
20 proper measurements, and Wright made a  
21 measurement that was very pleasing to or made an  
22 argument very pleasing to Monsanto, it appears,  
23 that said let's not go so low. You know, that is  
24 what I seem to understand.

25 Q. Do you have an opinion regarding the



1 Rosner

2 scientific validity of the criticisms made by Dr.  
3 Wright concerning EPA's proposed bioconcentration  
4 factor subsumed within its proposed water quality  
5 criteria in 1974?

6 A. I don't know what methodology he  
7 used.

8 MR. JULIUS: Objection, lacks  
9 foundation, assumes facts, may be beyond  
10 the scope of his designation.

11 A. I don't know what methodology he  
12 used. You're going to have to ask somebody who  
13 is more sophisticated in the science of  
14 epidemiology at that point and what that science  
15 was, but the simple fact is that nobody  
16 understood what levels of exposure could cause  
17 human harm, and that is what the early 70's were  
18 all about with the EPA, and asbestos and vinyl  
19 chloride and all the substances that they are  
20 trying to regulate.

21 And there is, you know, arguments  
22 that could be made about what is good and what is  
23 bad science, but the simple fact is by 1970 the  
24 basic principle in public health was do you not  
25 wait until you have perfect proof before you act

1 Rosner

2 on what you know, and what you know is PCBs were  
3 bad, and let's get them out of our materials.

4 Q. Move to strike, Doctor.

5 Do you know what science supported  
6 Dr. Wright's opinion regarding the  
7 bioconcentration factor suggested by EPA in 1974?

8 A. No, I don't know.

9 MR. JULIUS: Assumes facts, lacks  
10 foundation.

11 A. I don't know what the technology was  
12 that he used.

13 Q. You cannot testify as to the validity  
14 or invalidity of Dr. Wright's opinion submitted  
15 to EPA?

16 MR. JULIUS: Asked and answered.

17 Assumes facts.

18 A. I can look at what was said in these  
19 documents, and what was said in this document is  
20 that they were very pleased that Mr. Wright was  
21 successful in his efforts to lower the acceptable  
22 limits.

23 Beyond that, I cannot answer what the  
24 technology was, and I can't answer what was  
25 appropriate at that time other than to say what

1 Rosner

2 everyone understood was that PCBs were lousy to  
3 have in the human body, were lousy to have in the  
4 environment, and that they were desperate to try  
5 to restrict it as much as possible, and Mr.  
6 Wright did not support restricting it as much as  
7 the EPA said was possible.

8 Q. And you understand that EPA agreed  
9 with Dr. Wright regarding the mistake that EPA  
10 made concerning the derivation of its  
11 bioconcentration factor?

12 A. They may have.

13 MR. JULIUS: Assumes facts.

14 A. This is something that the EPA often  
15 had to do to find compromises that the industry  
16 would accept and that was going to be accepted to  
17 a broader public. They did the best they could.

18 MR. MILLER: Move to strike.

19 Q. Doctor, do you have a particular  
20 understanding of this proposed EPA water effluent  
21 limit in terms of what science went into its  
22 development or derivation?

23 A. No.

24 MR. JULIUS: Asked and answered.

25 (Defendants' Exhibit 31, Document

1 Rosner

2 Q. I want to be very precise, because  
3 this document that we have marked as Exhibit 36  
4 refers to disposal of PCBs in a toxic dump, and I  
5 want to know if you can cite to me a specific  
6 document that says it is an inappropriate  
7 recommendation to recommend the disposal of PCBs  
8 in a "toxic dump," as it was known in 1968?

9 MR. JULIUS: Asked and answered.

10 A. I can't come up with a specific  
11 document, if you ask me that.

12 Q. I hand you what I have marked as  
13 Exhibit 37.

14 (Defendants' Exhibit 37, Article  
15 entitled Polychlorinated Biphenyls: How  
16 Do They Affect Human Health, written by  
17 Renate Kimbrough, M.D. published in August  
18 1988, was so marked for identification, as  
19 of this date.)

20 Q. Have you seen what we have marked as  
21 Exhibit 37, which is an article entitled  
22 Polychlorinated Biphenyls: How Do They Affect  
23 Human Health, written by -- turn to the second  
24 page -- Renate Kimbrough, M.D., U.S.  
25 Environmental Protection Agency, Office of

1 Rosner

2 those materials.

3 Q. Between the 30's and 60's, can you  
4 identify any chemicals that were tested using a  
5 two-year cancer protocol that were not previously  
6 identified as causing cancers in workers,  
7 pharmaceuticals were not used as ingredients in  
8 foods?

9 A. No. That is why, I mean that is why  
10 I found it interesting that they could be so sure  
11 that it didn't cause cancer, because they had  
12 never done studies in 1965 when they talked to  
13 DuPont.

14 Q. Just answer my question. I  
15 understand what you want to say, but in terms of  
16 my question --

17 MR. MILLER: Can you read it back.

18 Q. I think your answer was no, and then  
19 you elaborated, but I just want to make sure I  
20 have an answer.

21 (Record read)

22 A. Not off the top of my head, no.

23 MR. MILLER: That's all I have.

24 THE WITNESS: Great. Thank you.

25 MR. JULIUS: I have two questions.

C E R T I F I C A T I O N

I, JOSEPH R. DANYO, a Shorthand Reporter  
and Notary Public, within and for the State of New  
York, do hereby certify:

That I reported the proceedings in the  
within entitled matter, and that the within transcript  
is a true record of such proceedings.

I further certify that I am not related, by  
blood or marriage, to any of the parties in this  
matter and that I am in no way interested in the  
outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set  
my hand this 16th day of December, 2019.



---

JOSEPH R. DANYO

# **EXHIBIT 6**

Page 1

MISSOURI CIRCUIT COURT  
TWENTY-FIRST JUDICIAL CIRCUIT  
ST. LOUIS COUNTY

-----X  
HELEN HAMMONDS, individually and as  
survivor of Decedent WILLIAM HAMMONDS,

Plaintiffs,

-VS-

MONSANTO COMPANY, et al.,

Defendants.

Cause No.: 10SL-CC03437-01

-----X

340 Madison Avenue  
New York, New York

December 15, 2014  
9:12 a.m.

Videotaped Deposition of DAVID ROSNER, Ph.D.,  
pursuant to Notice, before Darby Ginsberg, RPR, a  
Notary Public of the State of New York.



David Rosner, PhD  
December 15, 2014

Page 266

1 Q. Every available method?

2 A. Yeah. That's what it would mean, wouldn't it?

3 Q. And who would determine whether or not every  
4 available method was actually being pursued --

5 MR. JENSEN: Objection to form.

6 MR. UPSHAW: -- to meet this standard?

7 THE WITNESS: I think the executives in the  
8 company. I think the medical director. I think the  
9 people in various parts of the country. They all have a  
10 responsibility.

11 BY MR. UPSHAW:

12 Q. Were there other companies that were performing  
13 every test available to test thoroughly for their  
14 products?

15 A. I don't know.

16 Q. You don't know. So you were applying -- this is  
17 an industry standard. You are saying that it applies  
18 not only to Monsanto but other companies in the  
19 industry?

20 A. That's right.

21 Q. And you are not aware of any other company that  
22 was applying the standard that you have just talked  
23 about?

24 A. Again, I don't know. I can't talk about this  
25 wide world. I would hope that people were doing it. If

David Rosner, PhD  
December 15, 2014

Page 267

1 they were doing it, great. If not, they should be held  
2 accountable for what they say they are going to do.

3 Q. Do you believe that Monsanto had satisfied this  
4 standard?

5 A. No.

6 Q. Why not?

7 A. Because they still had to wait for Woodmark in  
8 Sweden to tell them who produced the material that there  
9 was a problem here and that they were producing it for  
10 now -- from 1963 to 1931, '32, '33, when they bought  
11 Swann, they were now doing it for three decades,  
12 profiting from it, and they just hadn't done the basic  
13 work. They had to wait for somebody in Sweden to  
14 discover this. It seems to me they should have been  
15 following it very directly from the moment they started  
16 making a profit off of it.

17 Q. So were the paint manufacturers satisfying the  
18 standard, then?

19 A. Well, there were -- some of them were and some of  
20 them weren't.

21 Q. How about the paint manufacturers that were using  
22 PCBs in their paints, were they satisfying the standard?

23 A. Well, they would not -- you know, I guess, they  
24 really should have known, too.

25 Q. How about the caulk manufacturers that were using

David Rosner, PhD  
December 15, 2014

Page 291

C E R T I F I C A T E

STATE OF NEW YORK )

)ss.:

COUNTY OF NEW YORK )

I, DARBY GINSBERG, a Notary Public within and for  
the State of New York, do hereby certify:

That DAVID ROSNER, Ph.D., the witness whose  
deposition is herein before set forth, was duly sworn by  
me and that such deposition is a true record of the  
testimony given by such witness.

I further certify that I am not related to any of  
the parties to this action by blood or marriage; and  
that I am in no way interested in the outcome of this  
matter.

IN WITNESS WHEREOF, I have hereunto set my hand  
this 24th day of December, 2014.

---

DARBY GINSBERG  
Commission Number: 01GI6230654  
Expires: 11-1-2018

**Paszkiewicz Court Reporting**  
**(618) 307-9320 / Toll-Free (855) 595-3577**

Decl. of A. Miller in Support of Daubert Motion  
To Exclude D. ROSNER Expert Testimony -336

# **EXHIBIT 7**

DAVID ROSNER

November 18, 2010

1

MISSOURI CIRCUIT COURT  
TWENTY-FIRST JUDICIAL CIRCUIT  
ST. LOUIS COUNTY

EDWARD COLELLA,	)	
	)	
Plaintiff,	)	
vs.	)	
MONSANTO COMPANY, and	)	Cause No.
SOLUTIA, INC.,	)	095L-CC01972
	)	
Defendants.	)	
-----	)	
RUTH NISHIDA, NICHOLAS	)	
WHITE, Individually and as	)	
Survivor of MARK WHITE,	)	
deceased, and ALLISON	)	
TUCKER,	)	
	)	
Plaintiffs,	)	
vs.	)	
MONSANTO COMPANY, and	)	
SOLUTIA, INC.,	)	
	)	
Defendants.	)	
-----	)	

VIDEOTAPED DEPOSITION OF DAVID ROSNER

New York, New York

Thursday, November 18, 2010

Reported by:  
TAMI H. TAKAHASHI, RPR, CSR  
JOB NO. 309926



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DAVID ROSNER

November 18, 2010

2

November 18, 2010

8:53 a.m.

Videotaped Deposition of DAVID  
ROSNER, held at the offices of Leader &  
Berkon LLP, 630 Third Avenue, New York, New  
York, pursuant to Notice, before TAMI H.  
TAKAHASHI, a Registered Professional Reporter  
and Notary Public of the State of New York.



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DAVID ROSNER

November 18, 2010

52

Rosner

that polyvinyl chloride was related to carcinoma of the liver, angiocarcinoma of the liver.

Q. Which book did this come from?

A. This was in "Deceit and Denial."

Q. Do you hold yourself out as an expert in the evolution of analytical chemistry?

A. No, I'm not an analytical chemist. I'm -- I've read some studies, but no.

Q. From what I understand you just answered, you're not an expert in analytical chemistry.

What I'm asking is are you an expert in the historical developments or the evolution of analytical chemistry as a science?

A. You know, I've looked at the history of chemistry as a science, but not analytic chemistry, if you're specifically focused on that.

Q. Okay. Have you ever conducted a toxicological study?

A. No.



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DAVID ROSNER

November 18, 2010

117

Rosner

THE VIDEOGRAPHER: This completes  
DVD number 1. Going off the record at  
11:03 a.m.

(Recess taken.)

THE VIDEOGRAPHER: This is DVD  
number 2. Back on the record at 11:07  
a.m.

BY MR. MILLER:

Q. Dr. Rosner, are you an expert on  
human factors?

A. You mean advertising, marketing of  
products and how to get across messages?

Q. No.

A. Only the history of human factors  
research.

Q. Are you an expert in the efficacy  
of warnings?

A. I'm an expert on the history of  
the -- of arguments about warnings.

Q. Are you an expert in determining  
under what circumstances warnings work?

A. I'm a historian who looks at the  
history of arguments about warnings and the  
contention of whether or not they work.



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DAVID ROSNER

November 18, 2010

118

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Rosner

Q. Okay. Are you -- to summarize, then, you're not an expert in determining under what conditions warnings alter behavior; is that correct?

A. No, I would not say I was.

Q. Okay.

A. Today, no.

Q. Are you offering any opinions in this case on whether, if Monsanto could have issued some different warnings at some time in the past to purchasers of PCBs or customers, whether those warnings would have altered Monsanto's customers' use, handling or disposal of PCBs?

MR. FRIELING: Object to the form.

A. I could only assume that given -- given our understanding of the ways in which warnings can alert people to danger, that some of these customers may have said to Monsanto, what do you mean you're putting something that causes liver damage and toxicity -- toxic materials into our substance? And may have said to them, you know, what is it that you know or don't know



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DAVID ROSNER

November 18, 2010

371

C E R T I F I C A T E

STATE OF NEW YORK )

: SS.

COUNTY OF NEW YORK )

I, TAMI H. TAKAHASHI, a Notary  
Public within and for the State of New  
York, do hereby certify:

That DAVID ROSNER, the witness  
whose deposition is hereinbefore set  
forth, was duly sworn by me and that  
such deposition is a true record of the  
testimony given by the witness.

I further certify that I am not  
related to any of the parties to this  
action by blood or marriage, and that I  
am in no way interested in the outcome  
of this matter.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 30th day of November  
2010.

*Tami H. Takahashi*

TAMI H. TAKAHASHI



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